

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH F. MORIN and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, Pa.

*Docket No. 97-1810; Submitted on the Record;
Issued March 29, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on February 20, 1995, causally related to his January 4, 1995 employment-related injury.

On January 4, 1995 appellant, then a 53-year-old mailhandler, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that on that same day while pulling sacks from carts, he felt a severe pain in his stomach and two hard lumps appeared by his belly button. Dr. John M. Draganescu, a Board-certified internist, examined appellant on January 5, 1995, and diagnosed probable exacerbation of a periumbilical hernia resulting in transient protrusion of the intestine through the hernia. Appellant obtained a second opinion from Dr. Allen S. Gabroy, a Board-certified surgeon, who examined him on January 9, 1995 and concluded that appellant's umbilical hernia rendered him unfit for duty. He also recommended prompt surgery, which he performed on an out-patient basis on January 16, 1995. On February 13, 1995 Dr. Gabroy cleared appellant to return to work in a light-duty, no lifting capacity. Appellant subsequently returned to work on February 15, 1995, with a "temporary no lifting" restriction. The Office of Workers' Compensation Programs accepted appellant's claim for aggravation of an umbilical hernia requiring surgical repair.

On March 10, 1995 appellant filed a notice of recurrence of disability (Form CA-2a) alleging that he sustained a recurrence of disability on February 20, 1995, causally related to his January 4, 1995 injury. Appellant described his condition as an elevated temperature with soreness in his side and groin, accompanied by difficulty urinating. Appellant also noted that he had twice passed "stringy blood clots while urinating." Appellant ceased working on February 22, 1995 and was admitted to the hospital on February 24, 1995. After a brief hospital stay, appellant was discharged on February 28, 1995, with a final diagnosis of hematuria and pyelonephritis. In a report dated May 9, 1995, Dr. David J. Kraman, a Board-certified urologist, explained that he initially examined appellant during his February 1995 hospital admission for treatment of urosepsis and urinary tract infection. The physician further explained that he

“thought that the urinary tract infection was in some way related to [appellant’s] umbilical hernia repair, probably from a Foley catheterization.” Dr. Kraman indicated appellant could return to work on March 13, 1995.

By decision dated June 15, 1995, the Office denied appellant’s claim on the basis that the evidence failed to demonstrate that the claimed recurrence of disability on February 20, 1995, was causally related to the accepted employment injury of January 4, 1995. In an accompanying memorandum, the Office explained that Dr. Kraman’s statement was not well reasoned in relating appellant’s February 1995 urinary tract infection to the prior work injury and surgery of January 1995. The Office characterized Dr. Kraman’s opinion on causation as speculative and further noted that a period of five weeks had elapsed from the time of surgery and appellant’s subsequent urinary tract infection.

By letter post-marked July 8, 1995, appellant requested an oral hearing before the Office which was subsequently conducted on November 20, 1996. In a January 27, 1997 decision, finalized on January 30, 1997, the Office hearing representative affirmed the Office’s June 15, 1995 decision. The hearing representative explained that the evidence submitted in support of appellant’s claim for recurrence of disability, namely Dr. Kraman’s May 9, 1995 report, was insufficient to meet appellant’s burden inasmuch as the physician failed to offer any medical reasoning to explain and support his conclusion. Appellant subsequently filed an appeal with the Board on May 6, 1997.

The Board has duly reviewed the case record on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability causally related to his January 4, 1995 employment-related injury.

It is an accepted principle of workers’ compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.¹ Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.² This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.³ Moreover, the physician’s conclusion must be supported by sound medical reasoning.⁴ While the opinion of a physician

¹ 20 C.F.R. § 10.121(a); *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

² *Robert H. St. Onge*, 43 ECAB 1169 (1992).

³ Section 10.121(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician’s report should include the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician’s opinion with medical reasons regarding the causal relationship between the employee’s condition and the original injury, any work limitations or restrictions and the prognosis. 20 C.F.R. § 10.121(b).

⁴ See *Robert H. St. Onge*, *supra* note 2.

supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁵

In the instant case, the hearing representative affirmed the Office's earlier decision due to a lack of rationalized medical opinion evidence establishing a causal relationship between appellant's January 4, 1995 employment-related injury and his alleged recurrence of disability on February 20, 1995. The only medical evidence of record to specifically address the cause of appellant's alleged February 20, 1995 recurrence of disability is Dr. Kraman's May 9, 1995 report. While he stated that he "think[s] [appellant] had a urinary tract infection related to a Foley catheter at the time of the umbilical hernia repair," Dr. Kraman neither provided a definitive assessment of the cause of appellant's condition nor did he provide any explanation regarding the basis of his opinion.⁶ In particular, he did not explain how an alleged catheterization occurring some five weeks prior could cause appellant's February 1995 urinary tract infection.⁷ A physician's mere conclusion without explanation or medical reasoning does not rise to the level of rationalized medical opinion evidence.⁸ Accordingly, Dr. Kraman's May 9, 1995 report, is insufficient to satisfy appellant's burden. Inasmuch as the remainder of the record is similarly insufficient to establish that appellant sustained a recurrence of disability on February 20, 1995, causally related to his January 4, 1995 employment-related injury, the Office properly denied compensation.

⁵ *Norman E. Underwood*, 43 ECAB 719 (1992).

⁶ In an earlier portion of his report, Dr. Kraman provides an even less definitive assessment regarding the cause of appellant's infection, noting: "I *thought* that the urinary infection was *in some way* related to his umbilical hernia repair, *probably* from a Foley catheterization." (Emphasis added.)

⁷ Moreover, it is not at all apparent from the record; particularly the medical records pertaining to appellant's outpatient surgery on January 16, 1995, that appellant was, in fact, catheterized during the procedure Dr. Gabroy performed to repair appellant's hernia.

⁸ *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (the Board found that a medical opinion not fortified by medical rationale is of little probative value).

The January 27, 1997 decision finalized January 30, 1997 of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
March 29, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member